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SEP 22 1998

RECORD N.H.

September 6, 1955

Mr. Frederick N. Clarke, Commissioner
Motor Vehicle Department
State House Annex
Concord, New Hampshire

Re: Effect of chapter 282, Laws
of 1955, upon drivers whose
convictions become final prior
to August 1, 1955. Passage of
this legislation.

Dear Mr. Clarke:

The answer to your inquiry of August 16,
1955 addressed to Attorney General Wyman must, of necessity,
be broken into three groups.

- (1) Those who have been tried, convicted and finally
sentenced prior to the passage of the Act,
- (2) Those whose prosecutions were pending either
initially or upon appeal at the time of the
passage of the Act, and
- (3) Those whose offenses occurred since passage of
the Act.

We have no problem with the third group and
they are no doubt prosecuted under the new statute.

As to those persons whose cases were pending,
whether initially or on appeal at the time of the passage of
the Act, or upon which prosecution has been commenced since
August 1 for offenses committed prior to that date, the re-
spondent is entitled to the new sentence by virtue of its
lesser penalty. The State v. Cobin, 96 N.H. 220, 223 and
State v. Arlin, 39 N.H. 179.

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As to those persons against whom a final judgment has been validly entered from which the convicted person took no appeal within the time limited for the taking of appeals before the passage of the new law, the change in the statute has no effect. Roby v. New Hampshire, 4 N.H. 285; 24 CJS 1200; 14 Am.Jur. 778. Their sentences including revocation and suspension remain in effect under the law as it existed at the time they were finally convicted.

Very truly yours,

George F. Nelson
Assistant Attorney General

QFN:L